

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Jeffrey John Wirth,

Defendant.

Case No. 11-cr-00256(1) ADM -JJK

**Memorandum of Law in Support of a Motion for Leave to
File a Motion for Bill of Particulars**

This Court may grant a defendant leave to file a motion for a bill of particulars even after 14 days have passed since the arraignment. Fed. R. Crim. P. 7(f); Fed. R. Crim. 12(b)(2). The purpose of the bill of particulars is to inform the defendant of the charges with “sufficient precision to enable him to prepare for trial” and “to avoid or minimize the danger of surprise at trial.” *United States v. Hernandez*, 299 F.3d 984, 989-90 (8th Cir. 2002). The indictment is then sufficient only when “the elements of the offenses are delineated and the general statement is accompanied by the *specific facts constituting the offense*.” *United States v. Helmel*, 769 F.2d 1306, 1322 (8th Cir. 1985) (quoting *Hamling v. United States*, 418 U.S. 87, 117 (1974)) (emphasis added).

Mr. Wirth was indicted on August 17, 2011 and appeared for arraignment on September 2, 2011. (Dkt. No. 20.) In the Indictment, the Government alleges

that Wirth was involved in a complex and expansive tax-misrepresentation conspiracy. As fully presented in the Memorandum of Law in Support of the Motion for Bill of Particulars attached as Exhibit A of the Declaration of Jennifer M. Robbins, this Indictment is not sufficient because it fails to identify each transaction that is a part of the alleged tax-misrepresentation conspiracy. The Government instead has identified only seventeen “examples” of misrepresented transactions, (Indictment ¶¶ 16, 17, 20, 22), among more than 500,000 separate transactions. In addition, the Government alleges that Wirth directly or indirectly owns nearly thirty “Related Businesses,” (Indictment ¶ 2), yet never identifies which of these nearly thirty businesses were involved in the transactions that are allegedly part of the tax-misrepresentation conspiracy. Mr. Wirth cannot fully prepare for his defense at trial, or prevent against double jeopardy, without an Indictment that fully identifies the businesses and transactions involved in the alleged conspiracy.

For the aforementioned reasons, and those presented in the Memorandum of Law in Support of the Motion for Bill of Particulars, Mr. Wirth respectfully requests that this Court grant his Motion for Leave to File a Motion for Bill of Particulars.

Dated: November 4, 2011

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